

4853-12



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

December 12, 2000

Ref: ENF-L

John D. McCarthy, Esq.
Holme Roberts & Owen LLP
1700 Lincoln Street, Suite 4100
Denver, CO 80203

Dear Jay:

Thank you for sending the documents I requested in my letter of November 22, 2000. Unfortunately, we have very different recollections of our last telephone conversation. In that conversation we discussed your client's refusal to grant access to the Kootenai Bluffs and Kootenai Flyway properties. You indicated that your client needed more information about EPA's intended actions on the property and, in particular, that Grace-KDC wanted a work plan for those actions. I indicated that EPA was not required to design a work plan for a removal action. As I have stated before, the nature of the work to be performed is no different than that described in the Action Memorandum dated May 23, 2000 or the work already performed by EPA at the Screening Plant and by your client at the Export Plant. In addition, on November 22, 2000 I sent you the "Removal Action Sampling and Analysis Plan for Confirmation Sampling of Soil and Perimeter and Personal Sampling of Air for Asbestos, September 2000 Revision 1" and maps indicating the scope of the removal action at the Kootenai Flyway property and the area under consideration for removal actions at the Kootenai Bluffs property. The administrative record, the site file and your client's own files are replete with documents describing the nature of the work that has been performed to date and that needs to be performed at these two properties.

I appreciate your offer to continue discussions. At some point in time, I do believe that such discussions will be beneficial to both parties. Unfortunately, based on past experience with Grace-KDC negotiations, EPA does not believe that further informal discussions on the access issue will be fruitful.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Cohn".

Matthew Cohn
Legal Enforcement Program



Printed on Recycled Paper